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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/248,111

02/11/1999

ICHIRO NAKANO

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8405

21171

7590

09/27/2004

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EXAMINER

AN, SHAWN S

ART UNIT

PAPER NUMBER

2613

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/248,111

Applicant(s)

NAKANO ET AL.

Examiner

Shawn S An

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 5-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Request for Continued Examination

1. The request filed on 7/30/04 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/248,111 is acceptable and a RCE has been established. An action on the RCE follows.

Response to Amendment

2. As per Applicants' instructions as filed on 7/30/04, claims 1-4 have been amended.

Further, Applicants' argument with respect to amended claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Bae et al (6,256,072 B1).

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Regarding claims 1 and 3, Bae et al discloses a moving image data controlling apparatus/method, and computer readable medium storing a program (col. 32, lines 60-64), comprising:

a moving image source input unit (Fig. 1, 40) inputting moving image data;
an information input unit (92) inputting control information externally produced, and designating a processing for the moving image data inputted through the moving image source input unit;

a data integrating unit (80) integrating the moving image data, with the control information inputted through the information input unit (col. 5, lines 55-67; col. 6, lines 1-4); and

storing the image data and the control information which are integrated (50).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bae et al (6,256,072 B1).

Regarding claims 2 and 4, Bae et al discloses a moving image data controlling apparatus, comprising:

a moving image source input unit (Fig. 1, 40) inputting moving image data comprising plural data of a predetermined image unit;

An area information input unit (92) inputting area information externally produced and defined for each image unit of the image data inputted through the moving image source input unit; and

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A data integrating unit (80) integrating the area information as additional information for all pixels in each predetermined image unit of the moving image data, with the moving image data (col. 5, lines 55-67; col. 6, lines 1-4).

Bae et al further discloses digitally modulated captioned signal (abs.).

Even though Bae et al does not specifically disclose digital video images, the Examiner takes official notice that digital video images are well known in the art.

Furthermore, computer readable medium storing program such as a software implementation is also well known in the art.

Therefore, it would have been obvious to a person of ordinary skill in the relevant art employing a moving image data controlling apparatus as taught by Bae et al to substitute the images with the digital images to be included in the moving image source input unit in order to enhance the quality of the image data, and also implement the programming language widely available as an alternative solution to the hardware implementation for executing the above operations, thereby saving the major costs associated with the hardware implementation.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to **Shawn S An** whose telephone number is 703-305-0099. The Examiner can normally be reached on Flex hours (10).

8. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SSA

Primary Patent Examiner

9/16/04